if the offer was refused. He says that the debtor had landed property in India and last month drew some money as a result of a contract.

The allegation as to property in India is too vague, and I leave it out of consideration. The main facts stated in the debtor's application must be assumed to be correct. Mr. de Mello, who appeared on his behalf, cited authorities in his favour. These were *in re Otway*, 1895, 1 Q.B. 812; *in re Betts*, 1897, 1 Q.B. 50; *in re Emma Somers*, 4 Manson's 227; and *re Seah Peng Liat*, reported at p. 67 of the "Malayan Law Journal" for April 1939. The latter case is a decision of this Court and the first three authorities cited were analysed by McElwaine C.J., in his judgment. The learned Chief Justice rejected the Petition on the ground that an adjudication would be of no real value to the creditors and might cause very serious hardship to the debtor.

The question is always one for the exercise of the Court's discretion—but it may be safely said that the discretion would always be exercised if the making of a receiving order would cause serious hardship to the debtor without being of any advantage to the creditor. The procedure in Bankruptcy is not meant to be oppressive. In the present case, a Receiving Order will cause the debtor's means of livelihood to be more precarious than it is now, and render it unlikely that the creditor will recover any part of the debt. I think Mr. de Mello has made out his case against this petition, and it will accordingly be dismissed, with costs.

Petition dismissed with costs.

Solicitor for Petitioning Creditor—*D. G. Osborne-Jones.*

Solicitor for Debtor—*A de Mello.*

[ORIGINAL CIVIL JURISDICTION]

MANNING, J.

June 2, 1939.

IN THE ESTATE OF SYED ABDULLAH BIN ABDULRAHMAN BIN SAHIL, DECEASED.

(SINGAPORE ORIGINATING SUMMONS No. 61 1939)

Grant of Letters of Administration to attorney of three next of kin—death of one of such next of kin —Grant of Letters of Administration not thereby revoked.

Deceased died intestate in 1915. Grant of Letters of Administration was made to attorney of widow. Widow and administrator both died. The three surviving next of kin of the deceased gave a power of attorney to plaintiff to apply for a Grant of Letters of Administration de bonis non and such a Grant was duly made in 1936 to the plaintiff as such attorney. Thereafter one of the next of kin, grantors of the power of attorney, died. The power of attorney made no reference to survivorship amongst the principals.

Held, the Grant of Letters of Administration de bonis non in favour of the plaintiff was not revoked by the death of one of the grantors of the power of attorney.

Munro for the plaintiff referred to *In re Dinshaw* (1930) P. 180 and *Williams* on "Executors" 12th Edn. at p. 358.

Defendant, one of the next of kin of the deceased, did not appear.

Cur. Adv. Vult.

Manning, J.—The first question asked in this Originating Summons raises an interesting point. The abovenamed deceased died intestate on 21st October 1915, and letters of administration were granted to one Syed Alwee as attorney of the widow of the deceased. The deceased left one son and four daughters.

Syed Alwee died on the 11th October 1932. Nothing appears to have been done till the year 1936. At that date the widow, the son and one daughter had died. The remaining three daughters appointed the plaintiff their attorney on the 16th March 1936, and on the 6th July 1936 the plaintiff was granted letters of administration *de bonis non* to the estate of the deceased.

One of the these three daughters died on the 30th December 1936, and I am now asked to determine whether in view of this event the letters of administration granted to the plaintiff are still in force.

I have not been referred to, nor have I been able to find, any authority directly in point. Mr. Munro cited *In the Estate of Dinshaw* 1930 P. 180. In that case letters of administration with the will annexed had been granted to one Vincent as the attorney of two executors. One of the executors died and the surviving executor made a fresh power of attorney to Vincent and another. It was held, on a motion by the surviving executor, that the original

letters granted to Vincent should be brought into the Registry to be cancelled, and that, that having been done, the way was clear for a new grant to the two new attorneys.

The decision does not indicate what would have been the result had the surviving executor not made the fresh power of attorney, which was held to have effectually cancelled the first power.

The question being free of authority, my view in the present matter is that, when one of the daughters died, the other two then became the persons entitled to letters of administration. They may come in themselves at any time and ask for letters of administration; they, or either of them, may at any time revoke the power of attorney to the plaintiff; and may at any time execute a fresh power. When they are both dead other persons become entitled to letters of administration and the power to the plaintiff naturally ceases, and with the power his office as administrator. But until any of these events happen, the plaintiff still remains the administrator. The answer to the first question must therefore be that, in the present circumstances, the letters of administration granted to the plaintiff are still in force. As long as any of the principals are alive, some action by them or one of them is necessary to displace him.

Order Accordingly.

Solicitors for plaintiff—*Allen & Gledhill.*

[ORIGINAL CIVIL JURISDICTION]

MANNING, J.

June 15, 1939.

R. M. N. SATHAPPA CHETTIAR

v.

SONG CHWEE OON

(SINGAPORE SUIT No. 13 of 1939)

Moneylenders Ordinance Section 4(1)—unenforceable security—delivery up.

A moneylender lent money to the Defendant on a promissory note, and at the same time deposited documents with the moneylender by way of security. The promissory note contained no mention of the deposit of these documents as security and there was no other note or memorandum of the contract.

Held, the promissory note was unenforceable and the borrower was entitled to the return of the documents which he had deposited as security.

Held, also that numerals on a promissory note must be written either in English words or English figures, but it is inmaterial whether English words or English figures are used.

Cohen v. Lester (1938) 4 A.E.R. 188 followed.

TRIAL OF ACTION.

Tampoe-Philips for Plaintiff.

Aditan for Defendant.

Cur. Adv. Vult.

Manning, J.—The plaintiff claims from the defendant $690 due on a promissory note. The defendant does not deny the note or the amount due, but pleads that the contract is unenforceable, and counterclaims for the return of certain securities deposited with the plaintiff.

The defence is based on certain provisions of the Moneylenders Ordinance. The plaintiff admits that he is a moneylender and that on 21st January, 1938, he lent a sum of $1020 to the defendant. The defendant undertook to repay $1150 in ten monthly instalments of $115. There is a conflict of evidence with regard to certain securities deposited with the plaintiff, namely a share certificate for 1000 shares in the Radio Service Company of Malaya Ltd., the registration card of a motor car, and an insurance policy with respect to the said motor car. The defendant says that these documents were deposited with the plaintiff as security for the loan and at the time the loan was made. The plaintiff denies this. He says that on the 21st July, 1938, when the defendant had paid three instalments only, he sent him a letter of demand through his solicitor.

The defendant begged for further time, and the plaintiff says he agreed to give him 2 months to settle on condition that the defendant deposited with him as security the documents relating to the car and the shares. The defendant then deposited these documents as security with the plaintiff.

On this issue of fact I believe the defendant.

There were 4 persons present when the loan was made, the plaintiff, the defendant, one Oh Bah, and one Soh Eng Keok. Oh Bah was the person whom the defendant approached when he found he required a loan. Oh Bah saw Soh Eng Keok and Soh Eng